IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

AND
THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL No.1807 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 08-11-2004 in W.P.No.19577 of 2004 on the file of the High Court.)

Between:

MIC Electronics Limited,

Having its Registered Office at A4,

Electronics Complex, Kushaiguda, Hyderabad - 500 062
rep.by its Authorized Signatory and Director, Sri L.N. Malleshwara Rao, S/o. Late Radhakrishnaiah,
aged about 44 years, R/o. Hyderabad.

..... APPELLANT

AND

1. Union of India, rep. by its Secretary to Government,

Department of Telecommunications,
Ministry of Telecommunications, New Delhi - 110 001.
2.Bharat Sanchar Nigam Limited, Government of India, Enterprise, 148 B, Statesman House, 12th floor, Barakhamba
Road, New Delhi - 110 001, rep. by its Chairman & Managing Director.
3.Assistant Director General (MMY), Mmt Section, Bharat Sanchar Nigam Limited, 148 B, Statesman House,
12th Floor, Barkhamba Road, New Delhi.
4.Telecom Equipment Manufacturers Association of India,

4th floor, PHd House, RK Dalmla Wing, Khel Gaon Marg,
New Delhi - 110 016, represented by its Chairman-Emeritus Sri N.K. Goyal, S/o. Sri

I.S. Goyal, R/o. C-73, DDA MIG
Flats, Saket, New Delhi.

.....RESPONDENTS

Counsel for the Appellant: Mr.NOOTY RAM MOHAN RAO

Counsel for Respondent No.1: Mr.A.RAJASEKHAR REDDY

S.C. FOR CENTRAL GOVT.

Counsel for Respondent Nos.2 & 3: Mr. R.S.MURTHY

Counsel for Respondent No.4: Mr.S.S.PRASAD, Senior Counsel

for Mr.I.CHAKRAPANI.

The Court at the admission stage made the following :

ORAL JUDGMENT: (per the Hon'ble the Chief Justice)

The order passed by the learned single Judge, dismissing the writ petition, by answering Point No.1 only, and saying, that, in view of the findings on Point No.1, there is no need to answer Point No.2, is under challenge in this appeal. Point No.1 was formulated by the learned single Judge, on the objection taken by respondents 2 and 3, as regards territorial jurisdiction of this Court, to entertain and decide the writ petition filed by the petitioner-appellant, questioning the action of second respondent, in rejecting the petitioner-appellant's offer submitted for supply of equipment, in response to tender, dated 15th July 2004. The second point formulated was, that, whether, or, not, the petitioner company was entitled to exemption, to the extent of monetary limit, in furnishing bid security.

Learned single Judge, in his elaborate judgment, upheld the first objection, that, no part of cause of action had arisen at Hyderabad, so as to enable the writ petition, to be entertained and decided by this Court, and further held, that the cause of action, when tender of the petitioner-appellant was returned, had arisen at New Delhi, and holding so, learned single Judge observed thus:

> …….in the entire pleadings, it is nowhere pleaded that cause of action has arisen within the territorial jurisdiction of this Court, except stating that petitioner-company was registered with NSCI under single point registration scheme. It was contended by the learned counsel for the petitioner-company that issuance of certificate by NSIC recognizing the petitioner-company as small scale unit entitles the petitioner-company to claim benefit of exemption up to monetary limit in furnishing the bid security and bidders should also offer their WLL terminals to regional TEC for type approval/validation by at least one day before the date of opening of tender and acknowledgement from TEC will constitute integral part of bidding. It is not in dispute, the tender is floated from second respondent's office, which is located at New Delhi, clarifications were issued at New Delhi, petitioner-company submitted its tender at New Delhi and tenders were opened at New Delhi and tender of the petitioner-company was returned at New Delhi and accepted by the representative of the petitioner-company at New Delhi. None of the facts would constitute a cause of action giving rise to a dispute which could confer territorial jurisdiction on this Court. Registering with NSCI will entitle the petitioner to claim benefit of exemption from payment of bid security and eligible bidders should offer their WLL terminals to regional TEC for type approval/validation is only a condition, which makes eligible for consideration of the bid of the petitioner. Admittedly, the tender was not returned for non-issuing the certificate by TEC or not enclosing the registration certificate issued by NSCI for claiming benefit of exemption from payment of bid security and the said facts have no nexus on the basis whereof a prayer can be granted in favour of the petitioner. The said facts which have nothing to do with the rejection of the tender or for granting relief claimed by the petitioner cannot be said to give rise to a cause of action which would confer jurisdiction on this Court as interpreted by the Apex Court in KUSUM INGOTS & ALLOYS LIMITED v. UNION OF INDIA [(2004) 6 SCC 254].

Having considered the submission of the learned counsel for the appellant, we do not find any ground to interfere with the order passed by the learned single Judge, and simply endorse the reasoning of the learned single Judge.

Learned counsel for the appellant, however, submitted, that, the learned single Judge committed another error, in not giving any findings on Point No.2, which were

necessary, inasmuch as, in case, the appellate Court does not agree with the findings of the learned single Judge, on Point No.1, it would have gone into the findings on second point. We find no substance in the contention. Once, the question of jurisdiction was raised, and the Court, which has to take a decision on jurisdictional aspect, comes to the conclusion, that, it has no jurisdiction to entertain the writ petition, is not expected to record any findings on merits. Therefore, adjudication, on the second point, was unnecessary. Another contention raised by the learned counsel for the appellant is, that, respondent No.4 ought not to have been permitted to be added as a respondent, and learned single Judge erred in permitting the fourth respondent to be added as a respondent on the application made by it. On this score also, we find no substance in the submission made by the learned counsel for the appellant, inasmuch as, before the learned single Judge, question of jurisdiction was only raised, and that, fourth respondent was not a necessary party to the writ petition was no grievance of the appellant.

We find no substance in the appeal, and we hereby dismiss the same.

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(DEVINDER GUPTA, C.J.)

22nd November 2004.

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(M. NARAYANA REDDY, J.)

ARS

To

1. The Secretary to Government, Union of India,

Department of Telecommunications,
Ministry of Telecommunications, New Delhi - 110 001.
2. The Chairman & Managing Director, Bharat Sanchar Nigam Limited, Government of India, Enterprise, 148 B, Statesman House, 12th floor, Barakhamba Road, New Delhi - 110 001.

3.Assistant Director General (MMY), Mmt Section, Bharat Sanchar Nigam Limited, 148 B, Statesman House, 12th Floor, Barkhamba Road, New Delhi.
4. Two CD copies.